



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2014-0705]

RIN 1625-AA08

Special Local Regulations for Marine Events, Atlantic Ocean;
Ocean City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement date of the special local regulation for the recurring air show event known as the Ocean City Air Show, held over the waters of the Atlantic Ocean, adjacent to Ocean City, New Jersey. The change of enforcement date for the special local regulation is necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in the waters of the Atlantic Ocean adjacent to Ocean City, New Jersey, during the event.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] until 2:30 p.m. on September 14, 2014, and will be enforced from 11:00 a.m. to 2:30 p.m. on September 14, 2014.

ADDRESSES: Documents mentioned in this preamble are part of

docket [USCG-2014-0705]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail If you have questions on this temporary rule, call or e-mail Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215)271-4851, e-mail Brennan.P.Dougherty@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The regulation for this marine event may be found at 33 CFR

100.501, Table to § 100.501, section (a), line "13".

The Coast Guard is issuing this final rule pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b) and (d)(3)), which authorizes an agency to issue a rule without prior notice and opportunity to comment, and to take effect in less than 30 days, when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to minimize potential danger to the public during the event. The potential dangers posed by air shows make this change to the special local regulation necessary to provide for the safety of participants, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have this regulation in effect during the event. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners. For the same reasons, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date would be contrary to the public interest, because immediate action is needed to

ensure the safety of the event. However, notifications will be made to users of the affected area near Ocean City, NJ, via marine information broadcasts and a local notice to mariners.

B. Basis and Purpose

The legal basis and authorities for this rulemaking establishing a special local regulation are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish and define special local regulations. The Captain of the Port Delaware Bay is establishing a special local regulation for the waters of the Atlantic Ocean, near Ocean City, NJ, to protect event participants, spectators and transiting vessels. Entry into this area is prohibited unless specifically authorized by the Captain of the Port Delaware Bay or designated representative.

C. Discussion of the Final Rule

The City of Ocean City sponsors an annual Air Show usually held on the third Sunday in September over the waters of the Atlantic Ocean adjacent to Ocean City, New Jersey.

The regulation listing annual marine events within the Fifth Coast Guard District and special local regulation locations is 33 CFR 100.501. The Table to § 100.501 identifies special local regulations by COTP zone, with the COTP Delaware Bay zone listed in section "(a.)" of the Table. The Table to § 100.501, at section (a.) event Number "13", describes the enforcement date and regulated location for this marine event.

The date listed in the Table has the marine event on the third Sunday of September. However, this temporary rule changes the marine event date to September 14, 2014, to reflect the actual date of the event.

A fleet of spectator vessels is anticipated to gather nearby to view the marine event. Due to the need for vessel control during the marine event vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels. Under provisions of 33 CFR 100.501, during the enforcement period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

The Coast Guard will temporarily suspend the regulation listed in Table to § 100.501, section (a) event Number "13", and insert this temporary regulation at Table to § 100.501, at section (a.) as event Number "16", in order to reflect that the safety zone will be effective and enforced from 12:00 p.m. until 3:30 p.m. on September 14, 2014. This change is needed to accommodate the sponsor's event plan. No other portion of the Table to § 100.501 or other provisions in § 100.501 shall be affected by this regulation.

The regulated area of this special local regulation includes All waters of the New Jersey Intracoastal Waterway (ICW) bounded by a line connecting the following points; latitude 39°15'57"N,

longitude 074°35'09"W thence northeast to latitude 39°16'34"N,
longitude 074°33'54"W thence southeast to latitude 39°16'17"N,
longitude 074°33'29"W thence southwest to latitude 39°15'40"N,
longitude 074°34'46"W thence northwest to point of origin, near
Ocean City, NJ.

During the period of the safety zone, all persons and vessels will be prohibited from entering, transiting, mooring, or remaining within the zone, unless specifically authorized by the Captain of the Port Delaware Bay, or her designated representative. Those persons authorized to transit through the safety zone shall abide by and follow all directions provided by the Captain of the Port Delaware Bay, or her designated representative, in order to ensure they are not disrupting this marine event. U.S. Coast Guard Sector Delaware Bay will notify the public by broadcast notice to mariners at least one hour prior to the times of enforcement.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving

Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) the Coast Guard will make extensive notification of the Safety Zone to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the safety zone with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the air show.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following

entities, some of which may be small entities: the owners or operators of vessels intending to anchor or transit along a portion of the Atlantic Ocean adjacent to Ocean City, New Jersey from 12:00 p.m. to 3:30 p.m. on September 14, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: vessel traffic will be allowed to pass through the zone with permission of the Coast Guard Captain of the Port Delaware Bay or her designated representative and zone is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to users of the Delaware Bay and River.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture

Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and

does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category

of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 100, applicable to special local regulations on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting the waters of the Atlantic Ocean adjacent to Ocean City, NJ, in order to protect the safety of life and property on the waters for the duration of the air show. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 is revised to read as follows:

Authority: 33 U.S.C. 1233.

2. In §100.501, in the Table to § 100.501, suspend lines No. (a.)13 and add temporary line No. (a.)16 to read as follows:

§100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

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Table to §100.501

[All coordinates listed in the Table to §100.501 reference Datum NAD 1983]

No.	Date	Event	Sponsor	Location
(a.) Coast Guard Sector Delaware Bay - COTP Zone				
* 16	** September 14, 2014	* Ocean City Air Show	* Ocean City, NJ	** All waters of the New Jersey Intracoastal Waterway (ICW) bounded by a line connecting the following points; latitude 39°15'57"N, longitude 074°35'09"W thence northeast to latitude 39°16'34"N, longitude 074°33'54"W thence southeast to latitude 39°16'17"N, longitude 074°33'29"W thence southwest to latitude 39°15'40"N, longitude 074°34'46"W thence northwest to point of origin, near Ocean City, NJ. **
*	**	*	*	**

Dated: August 1, 2014.

B. A. Cooper,
Captain, U.S. Coast Guard,
Acting Captain of the Port Delaware Bay.

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Date: 08/19/2014]